APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/205,653	12/03/98	ELDERING	C 8887.3003

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027832
EXPANSE NETWORKS, INC.
300 NORTH BROADSTREET
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TM02/0619

DATE MAILED:
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| **Office Action Summary** | Application No. 09/205,653 | Applicant(s) Eldering et al | | |
| | Examiner Uyen Le | Art Unit 2171 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____3____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Apr 9, 2001* _____ .

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *20-51* _____ is/are pending in the application.

   4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *20-51* _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

   a) ☐ All b) ☐ Some* c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). ___9___

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

Response to Amendment

1.   Applicant's amendments to claims 46, 47 are acknowledged. Consequently, rejection to claims 46, 47 under 35 U.S.C. 112, second paragraph is withdrawn.

2.   Applicant's arguments have been fully considered but they are not persuasive. Applicant also seems to argue the claims as amended.

Applicant argues that the viewer profile in Williams is nothing more than a compilation of data and there is no reason to apply rules in order to generate the profile as recited claim 20. In response, Williams clearly teaches the concept of rules for generating viewers profiles when Williams shows that user profile database 800 tracks users preferred channels, volume, program genre information, whether to block content information and whether supplemental programming is requested with a particular channel (see Figure 8, column 5, lines 52-64). The claimed rules merely read on the fact that the system of Williams identifies the genre watched. If the viewer is detected as viewing most of the time cartoons, evidently the system would create a profile of a child so that next time that viewer is watching, advertisements such as cereal and toys are presented (see column 6, lines 40-49).

Applicant argues that there is no disclosure or suggestion of a profile having probabilistic measures of earnings, age or other profile type data. In response, the claimed profile having probabilistic measures merely reads on the fact that depending

on the genre watched, the system of Williams establish a profile for the viewer for example deciding whether a child or an adult is watching a program.

Applicant argues that the system of Williams already knows the users and their preferences, there is no need to apply rules to further define a profile of the user. Applicant cites column 10, line 26- column 11, line 21 of Williams as support. In response, the cited columns represent only one embodiment of Williams' invention. Before a user can be recognized by the system of Williams, clearly profiles using rules had to be applied in order to correlate programs to viewers for example viewers watching news are likely to be adults, viewers watching cartoons are likely to be children. Since in the system of Williams, advertising is presented to targeted viewers, clearly rules had been used to identify viewers and create profiles. Furthermore, since the system of Williams updates profiles and identifies new users, clearly rules are being applied in order to recognize new viewing patterns (see Figure 2, column 8, lines 14-24, column 9, lines 11-16).

Regarding claims 21, 22, 23, Applicant argues that Williams does not retrieves heuristic rules of time duration, volume level and demographics. In response, Williams clearly discloses time duration, volume level and demographics information used to create profiles (see column 6, lines 10-18, column 7, lines 20-25, column 6, lines 40-44). Although Williams does not explicitly mention retrieving heuristic rules as claimed, it would have been obvious to one of ordinary skill in the art to do so in order to correlate viewers to programs watched and create appropriate profiles for example adults or children.

Applicant presents no further arguments. For all the reasons discussed above,

rejection to all claims 20-51 is maintained using the reference of record.

Claim Objections

3.   Claims 39-47 are objected to because of the following informality: claim 39, line

10 has a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4.   Claims 20, 26, 28-31, 39, 43, 45-51 are rejected under 35 U.S.C. 102(e) as being

anticipated by Williams et al (US 5,977,964) of record.

Regarding claim 20, Williams discloses a method for generating a subscriber

profile vector including all the claimed features. Note

- The claimed "monitoring subscriber viewing activities including requests for

   source material initiated by the client side" is met when Williams shows that

   the system monitors viewer's selection of channels and stations (see column

   8, lines 25-40)

- The claimed "generating subscriber selection data, wherein the subscriber

   selection data corresponds to a record of the monitored subscriber viewing

activities" is met when the system records which programs have been

selected over time (see column 15, line 64- column 16, line 2)

- The claimed "retrieving source related information corresponding to the

requested source material" is met when the system gathers and stores

information related to the programs selected (see Figure 8)

- The claimed "retrieving heuristic rules associated with the source related

information" is met when Williams shows that the system correlates program

watched to genre and build a profile for the viewer (see column 5, lines 52-64)

- The claimed "processing the subscriber selection data with respect to the

source related information and the heuristic rules to generate the subscriber

profile vector" and "storing the subscriber profile vector" are met when the

system generates and stores viewers' profiles identifying adults and children

(see Figures 7, 8).

Claim 31 merely recites a system to perform the method of claim 20 with the

added limitations of means for transmitting a subscriber request for source material,

means for generating a program characteristic vector based on the source related

information. Such means are clearly present in the system of Williams to submit users

inputs (see column 8, lines 25-32) and to associate information of genre and stations to

programs as shown in Figure 8. Furthermore, clearly, a set of heuristic rules is retrieved

in order to build and update a viewer's profile and to identify new viewers (see column

2, lines 11-21, column 9, lines 11-16).

Regarding claim 39, Williams discloses all the claimed subject matter. The claimed "means for selecting source material for a subscriber to view" is met when Williams shows that depending on a recognized viewer, the system presents appropriate advertisements (see column 6, lines 40-44). The claimed "means for monitoring subscriber activity including means for receiving the subscriber selections for source material, means for recording the subscriber selections for source material, wherein a record of the selections constitutes subscriber selection data" are met when the system allows viewers to select programs and monitors which programs have been selected in order to create viewers profiles (see column 5, lines 60-64). The claimed "means for retrieving source related information, wherein the source related information includes descriptive fields corresponding to the source material, means for retrieving a set of heuristic rules associated with the source related information and means for processing the subscriber selection data with respect to the descriptive fields and the heuristic rules to generate the subscriber profile vector and means for storing the subscriber profile vector" are met when the system retrieves the channels, program genres of selected programs to generate the viewer preferences and store them in viewers profiles (see Figures 7, 8).

Regarding claim 48, Williams discloses an Internet browsing system (see column 5, lines 29-34) including input device for allowing a subscriber to select source material to view (see column 8, lines 25-40), a monitor for displaying the selected source material (see Figure 1), and a profile generator for generating a profile of the subscriber based on the selected source material and a set of heuristic rules associated with the

selected source material when Williams shows that profiles are generated based on the

program viewed which are correlated to genres (see Figures 7-9, column 5, lines 60-64,

column 6, lines 50-52).

Regarding claim 26, the claimed "wherein said retrieving source related

information includes context mining of textual information associated with the requested

source material" merely reads on the fact that the system of Williams identifies a genre

of programming for presenting programs according to current viewer's genre

preferences (see column 7, lines 39-58).

Regarding claim 28, Williams discloses retrieving source related information from

an electronic program guide associated with the requested source material (see column

7, lines 31-35).

Claim 29 merely reads on the fact that the system of Williams monitors a viewer's

activities such as muting or interrupting advertisements (see column 7, lines 2-6).

Claim 30 merely reads on the fact that the system of Williams monitors viewers'

activities over time (see Figure 8, column 6, line 50- column 7, line 19).

Regarding claim 43, the claimed "wherein said generating subscriber selection

data includes context mining of textual information associated with the selected source

material" merely reads on the fact that the system of Williams identifies a genre of

programming for presenting programs according to current viewer's genre preferences

(see column 7, lines 39-58).

Regarding claim 45, Williams discloses retrieving source related information from

an electronic program guide associated with the selected source material (see column

7, lines 31-35).

Claim 46 merely reads on the fact that the system of Williams monitors a viewer's

activities such as muting or interrupting advertisements (see column 7, lines 2-6).

Claim 47 merely reads on the fact that the system of Williams monitors viewers'

activities over time (see Figure 8, column 6, line 50- column 7, line 19).

Regarding claim 49, Williams discloses a profile generator including "means for

tracking subscriber selections for source material, means for retrieving the source

material" (see column 8, lines 25-40). The claimed "means for generating a content

characteristics vector based on the source material and means for processing the

subscriber selection with respect to the content characteristics vector and the set of

heuristic rules to generate the subscriber profile" are clearly present in the system of

Williams in order to build and update viewers profiles (see Figure 8), and to identify new

viewers (see column 2, lines 11-21, column 9, lines 11-16).

Regarding claim 50, Williams discloses a profile generator including "means for

monitoring subscriber activity, means for generating viewing habits information from the

subscriber activity" (see 8, lines 25-40, column 5, line 52- column 7, line 19). The

claimed "means for generating a viewer characteristics profile based on the viewing

habits information and the set of heuristic rules" are clearly present in the system of

Williams in order to generate viewers profiles as shown in Figure 8 and to recognize

new viewers (see column 9, lines 11-16).

Regarding claim 51, clearly the profile generator includes "means for monitoring

subscriber activity including recording subscriber selections for source material, means

for retrieving the source material" (see column 8, lines 25-40, column 5, lines 60-64),

and "means for generating the subscriber profile (see Figure 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 21-25, 27, 32-38, 40-42, 44, are rejected under 35 U.S.C. 103(a) as being

unpatentable over Williams et al (US 5,977,964) of record.

Regarding claim 21, Williams discloses monitoring time duration corresponding

to the viewing times of the requested source material when Williams shows that the

system correlates programs viewed at a certain time with genre (see column 16, lines

10-18). Although Williams does not explicitly show retrieving heuristic rules associated

with monitored time duration, it would have been obvious to one of ordinary skill in the

art to do so in order to correlate time viewed with probable viewer for example viewers

watching programs for long periods of time during the day are likely to be adults.

Regarding claim 22, Williams discloses monitoring volume levels and retrieving

(see column 7, lines 20-25, Figure 8). Although Williams does not explicitly show

retrieving heuristic rules associated with monitored volume levels, it would have been

obvious to one of ordinary skill in the art to do so in order to correlate the preferred

volume to specific viewers in order to identify older people for example.

Regarding claim 23, the claimed "subscriber profile vector includes household

demographic data indicating probabilistic measurements of household demographics"

merely reads on the fact that the method of Williams identifies adults and children using

the system in order to present appropriate advertisements (see column 6, lines 40-44).

Although Williams does not explicitly show that the heuristic rules define probabilistic

measures of demographics associated with subscribers viewing the source material, it

would have been obvious to one of ordinary skill in the art to include such features in

order to create a profile for targeting viewers for advertising purposes.

Regarding claim 24, the claimed "subscriber profile vector includes household

program preference information indicating probabilistic measurements of household

program interests" is met when the method of Williams monitors viewing habit of

different viewers in a household to adjust the system setting accordingly (see column 6,

lines 25-49). Although Williams does not explicitly show that the heuristic rules define

probabilistic measures of program interests associated with subscribers viewing the .

source material, it would have been obvious to one of ordinary skill in the art to include

such features in order to correlate program genres to viewers.

Regarding claim 25, the claimed "wherein the subscriber profile vector includes

household product preference information indicating probabilistic measurements of

household product interests" merely reads on the fact that the viewers' profiles in the

method of Williams determine which commercials are muted, interrupted or liked by

viewers of a household (see column 7, lines 2-10). Although Williams does not explicitly

show that the heuristic rules define probabilistic measures of product interests

associated with subscribers viewing the source material, it would have been obvious to

one of ordinary skill in the art to include such features in order to identify who is likely to

be interested in which product in order to advertise accordingly.

Regarding claims 27, 44, although Williams does not specifically show that the

textual information is closed-captioning data, Williams explicitly shows that the viewer

can set closed-captioning on/off preference (see column 6, lines 50-63). Furthermore,

Williams shows that programs are searched by keywords (see Figure 4). Therefore, it

would have been obvious to one of ordinary skill in the art to include text of closed-

captioning data while implementing the method taught by Williams in order to allow

identification of viewers' preferred programs by keywords related to the closed-

captioning data.

Claims 32-35 correspond respectively to a system for method claims 21-24, thus

are rejected for the same reasons stated in claims 21-24 above.

Regarding claim 36, Williams discloses a data processing system for generating

a household demographic characteristics vector in a client-server based architecture

(see Figures 6-8). The claimed "means for allowing a subscriber to request source

material", "means for monitoring subscriber activity", "means for generating household

viewing habits", "means for retrieving a set of heuristic rules", and "means for storing the

household demographic characteristics vector" are clearly present in the system of

Williams in order to monitor viewers' activities, submit requests to the host, recognize

specific viewers and build viewers' profile database (see column 3, line 5- column 8, line

40). Although Williams does not explicitly show the claimed "means for processing the

subscriber selection data with respect to the set of heuristic rules and the household

habit information to generate the household demographic characteristics vector", clearly

the system of Williams is used by a variety of users since it monitors viewers' activities

and detect new viewers. Therefore, it would have been obvious to one of ordinary skill

in the art to include the claimed features in order to provide appropriate programs and

advertisements to viewers depending on their household habit.

Claim 37 merely reads on the fact that the system of Williams monitors a viewer's

activities such as muting or interrupting advertisements (see column 7, lines 2-6).

Claim 38 merely reads on the fact that the system of Williams monitors viewers'

activities over time (see Figure 8, column 6, line 50- column 7, line 19).

Regarding claim 40, the claimed "subscriber profile vector includes household

demographic data indicating probabilistic measurements of household demographics"

merely reads on the fact that the system identifies adults and children using the system

in order to present appropriate advertisements (see column 6, lines 40-44). Although

Williams does not explicitly show that the heuristic rules define probabilistic measures of

demographics associated with subscribers viewing the source material, it would have

been obvious to one of ordinary skill in the art to include such features in order to create

a profile for targeting viewers for advertising purposes.

Regarding claim 41, the claimed "subscriber profile vector includes household

program preference information indicating probabilistic measurements of household

program interests" is met when the system of Williams monitors viewing habit of

different viewers in a household to adjust the system setting accordingly (see column 6,

lines 25-49). Although Williams does not explicitly show that the heuristic rules define

probabilistic measures of program interests associated with subscribers viewing the

source material, it would have been obvious to one of ordinary skill in the art to include

such features in order to correlate program genres to viewers.

Regarding claim 42, the claimed "wherein the subscriber profile vector includes

household product preference information indicating probabilistic measurements of

household product interests" merely reads on the fact that the viewers' profiles in the

system of Williams determine which commercials are muted, interrupted or liked by

viewers of a household (see column 7, lines 2-10). Although Williams does not explicitly

show that the heuristic rules define probabilistic measures of product interests

associated with subscribers viewing the source material, it would have been obvious to

one of ordinary skill in the art to include such features in order to identify who is likely to

be interested in which product in order to advertise accordingly.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Hertz et al (US 5,754,938) teach a pseudonymous server for customized electronic

identification of desirable objects.

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37
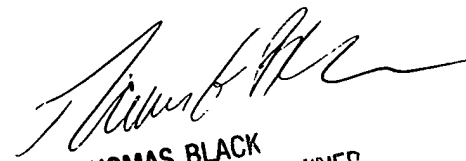
CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Uyen T Le whose telephone number is 703-305-4134.

The examiner can normally be reached on M-T 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thomas Black can be reached on 305-9707. The fax phone numbers for

the organization where this application or proceeding is assigned is 308-9051 for all .

communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 305-9000.

UL
June 15, 2001

THOMAS BLACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100